Changes between the 2001 draft permit and this revised draft permit are highlighted.

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et seq*., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

Hecla Mining Company
P.O. Box 31
Mullan, Idaho 83846

is authorized to discharge from the Lucky Friday Mine and Mill facility located near Mullan, Idaho, to the South Fork Coeur d'Alene River at the following locations:

Outfall	Latitude	Longitude
001	47° 27' 49" N	115° 48' 21" W
002	44° 28' 06" N	115° 47' 09" W
003	47° 28' 13" N	115° 45' 50" W

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective

This permit and the authorization to discharge shall expire at midnight,

Signed this day of

REVISED DRAFT
Randall F. Smith
Director
Office of Water, Region 10

REVISED DRAFT

REVISED DRAFT

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I. LIMITATIONS AND MONITORING REQUIREMENTS

During the effective period of this permit, the permittee is authorized to discharge pollutants from outfalls 001, 002, and 003 to the South Fork Coeur d'Alene (SFCdA) River, within the limits and subject to the conditions set forth herein. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

A. Effluent Limitations and Monitoring

1. The permittee must limit and monitor discharges from outfalls 001, 002, and 003, as specified in Tables 1, 2, 3, and 4, below. All figures represent maximum effluent limits unless otherwise indicated. The permittee must comply with the effluent limits in the tables at all times unless otherwise indicated, regardless of the frequency of monitoring or reporting required by other provisions of this permit.

2. The permittee must not discharge any floating, suspended, or submerged matter of any kind in concentrations causing a nuisance or objectionable condition or that may impair the designated beneficial uses of the receiving water.

3. The pH must not be less than 6.5 standard units (s.u.) nor greater than 9.0 s.u.

4. Cadmium **(outfall 001 and outfall 002 when the outfall 001 waste stream is discharged through outfall 002)**, Lead, Mercury, and Zinc Compliance Schedule.

   a. The permittee must comply with the **cadmium (outfall 001 and outfall 002 when the outfall 001 waste stream is discharged through outfall 002), lead, mercury, and zinc effluent limitations in Tables 1, 2, 3, and 4 on or before <insert date three years from permit issuance date>.**

   b. **The permittee shall design and implement a water recycling system on or before <insert date two years from permit issuance date>.**

   c. **The permittee shall have at the end of <insert date two years from permit issuance date>** 12 months for testing and analysis.

d. **If it is determined that a water treatment system is needed to comply with the effluent limits, the permittee shall develop a water treatment system on or before <insert date three years from permit issuance date> to comply with the effluent limits.**

e. Until compliance with the effluent limits is achieved, the permittee must submit an annual Report of Progress to EPA and IDEQ which outlines the progress made towards achieving compliance. The report must be submitted by January 31st of each year. At a minimum the annual report must include:

i) An assessment of the previous years cadmium, lead, mercury, and zinc data and comparison to the final effluent limitations.

ii) A report on progress made toward meeting the final effluent limitations.

iii) Further actions and milestones targeted for the upcoming year.

5. The permittee must collect effluent samples from the effluent stream after the last treatment unit prior to discharge into the receiving waters.

6. Method Detection Limits. For all effluent monitoring, the permittee must use methods that can achieve a method detection limit (MDL) less than the effluent limitation.

For purposes of reporting on the DMR, if a value is greater than the MDL, the permittee must report the actual value. If a value is less than the MDL, the permittee must report "less than {numeric MDL}" on the DMR. For purposes of calculating monthly averages, zero may be used for values less than the MDL.

Table 1 - Effluent Limitations and Monitoring Requirements for Outfall 001

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type
Cadmium[2]	not dependent upon river flow	1.5[6,7]	0.021[6,7]	0.58[6,7]	0.0081[6,7]	weekly	24-hour composite
	not dependent upon river flow	1.5[6,7]	0.021[6,7]	0.58[6,7]	0.0081[6,7]		
Lead[2]	not dependent upon river flow	3.2[6,7]	0.045[6,7]	1.9[6,7]	0.027[6,7]	weekly	24-hour composite
	not dependent upon river flow	37[6,7]	0.52[6,7]	22[6,7]	0.31[6,7]		
Zinc[2]	not dependent upon river flow	89[6,7]	1.2[6,7]	33[6,7]	0.46[6,7]	weekly	24-hour composite
	not dependent upon river flow	160[6,7]	2.2[6,7]	59[6,7]	0.83[6,7]		
Copper[2]	< 13 cfs	20	0.28	8.6	0.12	weekly	24-hour composite
	≥ 13 to < 30 cfs	25	0.35	11	0.15		
	≥30 to <103 cfs	36	0.50	16	0.22		
	≥103 to <176 cfs	67	0.93	29	0.41		
	≥ 176 cfs	58	0.81	25	0.35		
Mercury[3]	< 13 cfs	0.036[7]	0.00050[7]	0.018[7]	0.00025[7]	weekly	24-hour composite
	≥13 to < 30 cfs	0.044[7]	0.00062[7]	0.022[7]	0.00031[7]		
	≥30 to <103 cfs	0.077[7]	0.0011[7]	0.038[7]	0.00053[7]		
	≥103 to <176 cfs	0.22[7]	0.0031[7]	0.11[7]	0.0015[7]		
	≥ 176 cfs	0.35[7]	0.0049[7]	0.18[7]	0.0025[7]		
Silver[2]	< 13 cfs	3.6	0.050	2.1	0.029	weekly	24-hour composite

Table 1 - Effluent Limitations and Monitoring Requirements for Outfall 001

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type
	≥ 13 cfs	–	–	–	–	monthly	24-hour composite
Total Suspended Solids (TSS)	--	30 mg/l	469[6]	20 mg/l	247[6]	weekly	24-hour composite
pH, s.u.	--	see Part I.A.3.		see Part 1.A.3.		weekly	grab
Outfall Flow, cfs	--	--	--	--	--	continuous	recording
Temperature, °C	--	--	--	--	--	weekly	grab
E. coli, #/100 ml.	--	--	--	--	--	monthly	grab
Hardness, as $CaCO_3$, mg/l	--	--	--	--	--	monthly	24-hour composite
Whole Effluent Toxicity (WET)[4], TU_c	--	--	--	--	--	quarterly	24-hour composite
SFCDA River flow directly upstream of the outfall, cfs	--	--	--	--	--	daily	recording

Table 1 - Effluent Limitations and Monitoring Requirements for Outfall 001

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type

Footnotes:

1 - The effluent limits for copper, silver, and mercury will be determined by the monthly average of the daily flows measured in the SFCdA River directly upstream of outfall 001. The permittee must report the average monthly flow on the DMR.

2 - These parameters must be reported and analyzed as total recoverable.

3 - Mercury must be analyzed and reported as total.

4 - See Part I.B. for whole effluent toxicity testing requirements.

5 - These limits will be included in the final permit unless the cadmium, lead, and zinc site-specific criteria for the SFCdA River are approved by EPA prior to permit issuance.

6 - These limits will be included in the final permit if EPA approves the cadmium, lead, and zinc site-specific criteria for the SFCdA River prior to permit issuance.

7 - See Part I.A.4. for the cadmium, lead, mercury, and zinc compliance schedule.

8 - When any portion of the outfall 001 waste stream is discharged through outfall 002, then the total lbs/day TSS loading from outfall 001 and outfall 002 must not exceed the maximum daily and average monthly TSS effluent limits. See footnote 8 of Table 2. The TSS loading limits will be included in the final permit if the SFCdA River Sediment Subbasin Total Maximum Daily Load is approved by EPA prior to permit issuance.

Table 2 - Effluent Limitations and Monitoring Requirements for Outfall 002 When the Outfall 001 Waste Stream is Discharged Through Outfall 002

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type
Cadmium[2]	not dependent upon river flow	1.5[a,r]	0.021[a,r]	0.58[a,r]	0.0081[a,r]	weekly	24-hour composite
	not dependent upon river flow	1.5[a,r]	0.021[a,r]	0.58[a,r]	0.0081[a,r]		
Lead[2]	not dependent upon river flow	3.2[a,r]	0.045[a,r]	1.9[a,r]	0.027[a,r]	weekly	24-hour composite
	not dependent upon river flow	37[a,r]	0.52[a,r]	22[a,r]	0.31[a,r]		
Zinc[2]	not dependent upon river flow	89[a,r]	1.2[a,r]	33[a,r]	0.46[a,r]	weekly	24-hour composite
	not dependent upon river flow	160[a,r]	2.2[a,r]	59[a,r]	0.83[a,r]		
Copper[2]	< 8.6 cfs	16	0.22	7.0	0.098	weekly	24-hour composite
	≥ 8.6 to < 20 cfs	19	0.27	8.3	0.12		
	≥20 to <69 cfs	28	0.39	12	0.17		
	≥69 to <117 cfs	49	0.68	22	0.31		
	≥ 117 cfs	46	0.64	20	0.28		
Mercury[3]	< 8.6 cfs	0.030[r]	0.00042[r]	0.015[r]	0.00021[r]	weekly	24-hour composite
	≥ 8.6 to < 20 cfs	0.036[r]	0.00050[r]	0.018[r]	0.00025[r]		
	≥20 to <69 cfs	0.058[r]	0.00081[r]	0.029[r]	0.00041[r]		
	≥69 to <117 cfs	0.15[r]	0.0021[r]	0.075[r]	0.0010[r]		
	≥ 117 cfs	0.24[r]	0.0034[r]	0.12[r]	0.0017[r]		
Silver[2]	< 8.6 cfs	2.7	0.038	1.6	0.022	weekly	24-hour composite
	≥ 8.6 to < 20 cfs	3.2	0.045	1.9	0.027		

Table 2 - Effluent Limitations and Monitoring Requirements for Outfall 002 When the Outfall 001 Waste Stream is Discharged Through Outfall 002

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type
	≥ 20 cfs	–	–	–	–	monthly	24-hour composite
Total Suspended Solids (TSS)	--	30 mg/l	469[6]	20 mg/l	247[6]	weekly	24-hour composite
pH, s.u.	--	see Part I.A.3.		see Part 1.A.3.		weekly	grab
Outfall Flow, cfs	--	--	--	--	--	continuous	recording
Temperature, °C	--	--	--	--	--	weekly	grab
E. coli, #/100 ml.	--	--	--	--	--	monthly	grab
Hardness, as $CaCO_3$, mg/l	--	--	--	--	--	monthly	24-hour composite
Whole Effluent Toxicity (WET)[4], TU_c	--	--	--	--	--	quarterly	24-hour composite
SFCDA River flow directly upstream of the outfall, cfs	--	--	--	--	--	daily	recording

Table 2 - Effluent Limitations and Monitoring Requirements for Outfall 002 When the Outfall 001 Waste Stream is Discharged Through Outfall 002

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type

Footnotes:

1 - The effluent limits for copper, silver, and mercury will be determined by the monthly average of the daily flows measured in the SFCdA River directly upstream of outfall 002. The permittee must report the average monthly flow on the DMR.

2 - These parameters must be reported and analyzed as total recoverable.

3 - Mercury must be analyzed and reported as total.

4 - See Part I.B. for whole effluent toxicity testing requirements.

5 - These limits will be included in the final permit unless the cadmium, lead, and zinc site-specific criteria for the SFCdA River are approved by EPA prior to permit issuance.

6 - These limits will be included in the final permit if EPA approves the cadmium, lead, and zinc site-specific criteria for the SFCdA River prior to permit issuance.

7 - See Part I.A.4. for the cadmium, lead, mercury, and zinc compliance schedule.

8 - When any portion of the outfall 001 waste stream is discharged through outfall 002, then the total lbs/day TSS loading from outfall 001 and outfall 002 must not exceed the maximum daily and average monthly TSS effluent limits. See footnote 8 of Table 1. The TSS loading limits will be included in the final permit if the SFCdA River Sediment Subbasin Total Maximum Daily Load is approved by EPA prior to permit issuance.

Table 3 - Effluent Limitations and Monitoring Requirements for Outfall 002 When the Outfall 003 Waste Stream is Discharged Through Outfall 002

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type
Cadmium[2]	not dependent upon river flow	1.8[5]	0.034[5]	0.96[5]	0.018[5]	weekly	24-hour composite
	not dependent upon river flow	1.8[5]	0.034[5]	0.96[5]	0.018[5]		
Lead[2]	not dependent upon river flow	5.1[6,7]	0.096[6,7]	3.0[6,7]	0.056[6,7]	weekly	24-hour composite
	not dependent upon river flow	56[6,7]	1.1[6,7]	34[6,7]	0.64[6,7]		
Zinc[2]	not dependent upon river flow	130[6,7]	2.4[6,7]	76[6,7]	1.4[6,7]	weekly	24-hour composite
	not dependent upon river flow	210[6,7]	4.0[6,7]	130[6,7]	2.4[6,7]		
Copper[2]	< 20 cfs	20	0.38	7.4	0.14	weekly	24-hour composite
	≥ 20 to < 69 cfs	25	0.47	9.3	0.18		
	≥ 69 to <117 cfs	39	0.73	15	0.28		
	≥ 117 cfs	35	0.66	13	0.24		
Mercury[3]	< 8.6 cfs	0.028[7]	0.00053[7]	0.014[7]	0.00026[7]	weekly	24-hour composite
	≥8.6 to < 20 cfs	0.032[7]	0.00060[7]	0.016[7]	0.00030[7]		
	≥20 to <69 cfs	0.048[7]	0.00090[7]	0.024[7]	0.00045[7]		
	≥69 to <117 cfs	0.12[7]	0.0023[7]	0.058[7]	0.011[7]		
	≥ 117 cfs	0.18[7]	0.0034[7]	0.092[7]	0.0017[7]		
Silver[2]	not dependent upon river flow	5.1	0.096	3.0	0.056	weekly	24-hour composite

Table 3 - Effluent Limitations and Monitoring Requirements for Outfall 002 When the Outfall 003 Waste Stream is Discharged Through Outfall 002

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type
Total Suspended Solids (TSS)	--	30 mg/l	346[4]	20 mg/l	188[4]	weekly	24-hour composite
pH, s.u.	--	see Part I.A.3.		see Part 1.A.3.		weekly	grab
Outfall Flow, cfs	--	--	--	--	--	continuous	recording
Temperature, °C	--	--	--	--	--	weekly	grab
E. coli, #/100 ml.	--	--	--	--	--	monthly	grab
Hardness, as $CaCO_3$, mg/l	--	--	--	--	--	monthly	24-hour composite
Whole Effluent Toxicity (WET)[4], TU_c	--	--	--	--	--	quarterly	24-hour composite
SFCDA River flow directly upstream of the outfall, cfs	--	--	--	--	--	daily	recording

Table 3 - Effluent Limitations and Monitoring Requirements for Outfall 002 When the Outfall 003 Waste Stream is Discharged Through Outfall 002

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type

Footnotes:

1 - The effluent limits for copper, silver, and mercury will be determined by the monthly average of the daily flows measured in the SFCdA River directly upstream of outfall 002. The permittee must report the average monthly flow on the DMR.

2 - These parameters must be reported and analyzed as total recoverable.

3 - Mercury must be analyzed and reported as total.

4 - See Part I.B. for whole effluent toxicity testing requirements.

5 - These limits will be included in the final permit unless the cadmium, lead, and zinc site-specific criteria for the SFCdA River are approved by EPA prior to permit issuance.

6 - These limits will be included in the final permit if EPA approves the cadmium, lead, and zinc site-specific criteria for the SFCdA River prior to permit issuance.

7 - See Part I.A.4. for the lead, mercury, and zinc compliance schedule.

8 - When any portion of the outfall 003 waste stream is discharged through outfall 002, then the total lbs/day TSS loading from outfall 003 and outfall 002 must not exceed the maximum daily and average monthly TSS effluent limits. See footnote 8 of Table 4. The TSS loading limits will be included in the final permit if the SFCdA River Sediment Subbasin Total Maximum Daily Load is approved by EPA prior to permit issuance.

Table 4 - Effluent Limitations and Monitoring Requirements for Outfall 003

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type
Cadmium[2]	not dependent upon river flow	1.8[5]	0.034[5]	0.96[5]	0.018[5]	weekly	24-hour composite
	not dependent upon river flow	1.8[6]	0.034[6]	0.96[6]	0.018[6]		
Lead[2]	not dependent upon river flow	5.1[4,7]	0.096[4,7]	3.0[4,7]	0.056[4,7]	weekly	24-hour composite
	not dependent upon river flow	56[4,7]	1.1[4,7]	34[4,7]	0.64[4,7]		
Zinc[2]	not dependent upon river flow	130[4,7]	2.4[4,7]	76[4,7]	1.4[4,7]	weekly	24-hour composite
	not dependent upon river flow	210[4,7]	4.0[4,7]	130[4,7]	2.4[4,7]		
Copper[2]	< 18 cfs	20	0.38	7.4	0.14	weekly	24-hour composite
	≥ 18 to < 63 cfs	21	0.40	7.7	0.14		
	≥ 63 cfs	30	0.56	11	0.21		
Mercury[3]	< 8.0 cfs	0.027[7]	0.00051[7]	0.014[7]	0.00026[7]	weekly	24-hour composite
	≥8.0 to < 18 cfs	0.031[7]	0.00058[7]	0.015[7]	0.00028[7]		
	≥18 to < 63 cfs	0.045[7]	0.00085[7]	0.023[7]	0.00043[7]		
	≥ 63 to < 108 cfs	0.11[7]	0.0021[7]	0.054[7]	0.0010[7]		
	≥ 108 cfs	0.17[7]	0.0032[7]	0.086[7]	0.0016[7]		
Silver[2]	not dependent upon river flow	5.1	0.096	3.0	0.056	weekly	24-hour composite
Total Suspended Solids (TSS)	--	30 mg/l	346[8]	20 mg/l	188[8]	weekly	24-hour composite
pH, s.u.	--	see Part I.A.3.		see Part 1.A.3.		weekly	grab

Table 4 - Effluent Limitations and Monitoring Requirements for Outfall 003

Parameter	Upstream River Flow Tier[1]	Effluent Limitations				Monitoring Requirements	
		Maximum Daily		Average Monthly			
		ug/l	lb/day	ug/l	lb/day	Sample Frequency	Sample Type
Outfall Flow, cfs	--	--	--	--	--	continuous	recording
Temperature, °C	--	--	--	--	--	weekly	grab
E. coli, #/100 ml.	--	--	--	--	--	monthly	grab
Hardness, as $CaCO_3$, mg/l	--	--	--	--	--	monthly	24-hour composite
Whole Effluent Toxicity (WET)[4], TU_c	--	--	--	--	--	quarterly	24-hour composite
SFCDA River flow directly upstream of the outfall, cfs	--	--	--	--	--	daily	recording

Footnotes:
1 - The effluent limits for copper, silver, and mercury will be determined by the monthly average of the daily flows measured in the SFCdA River directly upstream of outfall 003. The permittee must report the average monthly flow on the DMR.
2 - These parameters must be reported and analyzed as total recoverable.
3 - Mercury must be analyzed and reported as total.
4 - See Part I.B. for whole effluent toxicity testing requirements.
5 - These limits will be included in the final permit unless the cadmium, lead, and zinc site-specific criteria for the SFCdA River are approved by EPA prior to permit issuance.
6 - These limits will be included in the final permit if EPA approves the cadmium, lead, and zinc site-specific criteria for the SFCdA River prior to permit issuance.
7 - See Part I.A.4. for the lead, mercury, and zinc compliance schedule.
8 - When any portion of the outfall 003 waste stream is discharged through outfall 002, then the total lbs/day TSS loading from outfall 003 and outfall 002 must not exceed the maximum daily and average monthly TSS effluent limits. See footnote 8 of Table 3. The TSS loading limits will be included in the final permit if the SFCdA River Sediment Subbasin Total Maximum Daily Load is in approved by EPA prior to permit issuance.

B. Whole Effluent Toxicity Testing Requirements. The permittee must conduct chronic toxicity tests on effluent samples from outfalls 001, 002, and 003. Testing must be conducted in accordance with subsections 1 through 6, below.

1. Test Species and Methods

   a. Tests must be run four times per year, during the months of February, May, August, and November.

   b. Toxicity testing must be conducted on 24-hour composite samples of effluent. In addition, a split of each sample collected must be analyzed for the chemical and physical parameters required in Part I.A above. When the timing of sample collection coincides with that of the sampling required in Part I.A, analysis of the split sample will fulfill the requirements of Part I.A. as well.

   c. The permittee must conduct tests with the water flea, *Ceriodaphnia dubia* (survival and reproduction test) and the fathead minnow, *Pimephales promelas* (larval survival and growth test) for the first three suites of tests. After this screening period, monitoring shall be conducted using the most sensitive species.

   d. The presence of chronic toxicity must be determined as specified in *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, EPA/600-4-91-002, July 1994.

   e. Results must be reported in TU_c (chronic toxic units), where $TU_c = 100/IC_{25}$. See Part VI. for a definition of IC_{25}.

2. Toxicity Triggers. For the purposes of determining compliance with paragraphs I.B.4. and I.B.5., the chronic toxicity trigger is defined as toxicity exceeding the trigger values in Table 5.

Table 5: Chronic Toxicity Triggers and Receiving Water Concentrations

Outfall	Flow Tier[1]	Chronic Toxicity Trigger, TU_c	Receiving Water Concentration (RWC), % effluent
001	< 13 cfs	1.8	56
	≥ 13 to < 30 cfs	2.3	43
	≥ 30 to < 103 cfs	3.9	26
	≥ 103 to < 176 cfs	11	9.1
	≥ 176 cfs	18	5.6
002 - when the outfall 001 waste stream is discharged through outfall 002	< 8.6 cfs	1.5	68
	≥ 8.6 to < 20 cfs	1.8	56
	≥ 20 to < 69 cfs	2.9	34
	≥ 69 to < 117 cfs	7.6	13
	≥ 117 cfs	12	8.3
002 - when the outfall 003 waste stream is discharged through outfall 002	< 8.6 cfs	1.4	71
	≥ 8.6 to < 20 cfs	1.6	63
	≥ 20 to < 69 cfs	2.4	42
	≥ 69 to < 117 cfs	5.9	17
	≥ 117 cfs	9.4	11
003	< 8.0 cfs	1.4	71
	≥ 8.0 to < 18 cfs	1.6	63
	≥ 18 to < 63 cfs	2.3	43
	≥ 63 to < 108 cfs	5.5	18
	≥ 108 cfs	8.7	11

footnote 1: The trigger values shall be determined by the average monthly flow directly upstream of the outfall for the testing month.

3. Quality Assurance

a. The toxicity testing on each organism must include a series of five test dilutions and a control. The series must include: the receiving water concentration (RWC), which is the dilution associated with the chronic toxicity trigger; two dilutions above the RWC, and; two dilutions below the RWC. The RWCs for each outfall are provided in Table 5, above.

b. All quality assurance criteria and statistical analyses used for chronic tests and reference toxicant tests must be in accordance with *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, EPA/600-4-91-002, July 1994, and individual test protocols.

c. In addition to those quality assurance measures specified in the methodology, the following quality assurance procedures must be followed:

i) If organisms are not cultured in-house, concurrent testing with reference toxicants must be conducted. If organisms are cultured in-house, monthly reference toxicant testing is sufficient. Reference toxicant tests must be conducted using the same test conditions as the effluent toxicity tests.

ii) If either of the reference toxicant tests or the effluent tests do not meet all test acceptability criteria as specified in the test methods manual, the permittee must re-sample and re-test within 14 days of receipt of the test results.

iii) Control and dilution water must be receiving water or lab water, as appropriate, as described in the manual. If the dilution water used is different from the culture water, a second control, using culture water must also be used. Receiving water may be used as control and dilution water upon notification of EPA. In no case shall water that has not met test acceptability criteria be used for either dilution or control.

4. Accelerated Testing.

a. If chronic toxicity is detected above a trigger specified in paragraph B.2., the permittee must conduct six more tests, bi-weekly, over a twelve week period. This accelerated testing must be initiated within two weeks of receipt of the test results that indicate an exceedence. Part I.B.4.d., below, allows for the

permittee to conduct only one accelerated test if the conditions under that part are met.

b. If none of the six accelerated tests exceed the trigger, then the permittee may return to the normal testing frequency.

c. If any of the six tests exceed the trigger, then the permittee shall initiate a Toxicity Reduction Evaluation (TRE) in accordance with Part I.B.5.

d. Initial Investigation. If the permittee demonstrates through an evaluation of facility operations that the cause of the exceedence is known and corrective actions have been implemented, only one accelerated test is necessary. If toxicity exceeding the trigger is detected in this test, then the TRE requirements in Part I.B.5. shall apply. If toxicity does not exceed the trigger, then the permittee may return to the normal quarterly testing frequency.

5. Toxicity Reduction Evaluation and Toxicity Identification Evaluation:

a. If a toxicity trigger is exceeded during accelerated testing under Part I.B.4.c. or d., the permittee must initiate a TRE in accordance with *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA/600/2-88/070) within fifteen (15) days of the exceedence. At a minimum, the TRE must include:

i) further actions to investigate and identify the cause of toxicity;

ii) actions the permittee will take to mitigate the impact of the discharge and to prevent the recurrence of toxicity; and

iii) a schedule for these actions.

b. If a TRE is initiated prior to completion of the accelerated testing, the accelerated testing schedule may be terminated, or used as necessary in performing the TRE.

c. The permittee may initiate a TIE as part of the TRE process. Any TIE must be performed in accordance with EPA guidance manuals, *Toxicity Identification Evaluation; Characterization of Chronically Toxic Effluents, Phase I*

(EPA/600/6-91/005F), *Methods for Aquatic Toxicity Identification Evaluations, Phase II: Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080), and *Methods for Aquatic Toxicity Identification Evaluations, Phase III: Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA-600/R-92/081).

6. Reporting

   a. The permittee must submit a full report of the results of the toxicity tests with the DMR for the month following sample collection.

   b. The permittee must submit the results of any accelerated testing, under Part I.B.4., within two weeks of receipt of the results from the lab. The full report must be submitted within four weeks of receipt of the results from the lab. If an initial investigation, under Part I.B.4.d. indicates the source of toxicity and accelerated testing is unnecessary, the result of the investigation must be submitted with the full report.

   c. The report of toxicity test results must include all relevant information outlined in Section 10, Report Preparation, of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*, Third Edition, EPA/600-4-91-002, July 1994. The full report must include: toxicity test results, dates of sample collection and initiation of each test, the toxicity triggers as defined in paragraph B.2., flow rate at the time of sample collection, and the results of the monitoring required in Part I.A.

C. Seepage Study. The permittee must conduct a seepage study to determine if there are unmonitored discharges of pollutants from the Lucky Friday facility tailings pond no. 1 and tailings pond no. 3 into the SFCdA River. If there is a discharge from outfall 002 for more than 6 months, then a seepage study must also be conducted for tailings pond no. 2.

1. The permittee must quantify seepage by performing a water balance analysis for each tailings pond based on monitoring and evaluation of inflows, outflows, and estimated losses (e.g., evaporation). Seasonal variation must be addressed in each water balance analysis.

2. Results of the seepage study must be submitted to EPA and IDEQ in a Seepage Study Report. The report must include a description of the methodology and data used to determine if seepage is occurring and the results of the study.

   a. The Seepage Study Report for tailings pond no. 1 and tailings pond no. 3 must be submitted to EPA and IDEQ within 18 months of the effective date of this permit.

   b. If a discharge occurs through outfall 002 for more than 6 months, then a seepage study must be performed for tailings pond no. 2. The Seepage Study Report for tailings pond no. 2 must be submitted to EPA and IDEQ within 18 months following the initial six month period of discharge from outfall 002.

D. Ambient Water Monitoring. The permittee must perform the following receiving water monitoring program.

1. River Flow Monitoring. River flow of the South Fork Coeur d'Alene (SFCdA) River directly upstream of each outfall must be determined daily according to requirements in Section I.A. (Tables 1, 2, 3, and 4).

2. Water Quality Monitoring

   a. The permittee must monitor the SFCdA River directly upstream of outfall 001 and directly upstream of outfall 003. If outfall 002 is being utilized, then the permittee must monitor directly upstream of outfall 002.

   b. All locations must be monitored four times per year during February, May, August, and November.

   c. All ambient samples must be grab samples.

   d. Samples must be analyzed for the parameters listed in Table 6 to achieve method detection limits (MDLs) that are equivalent to or less than those listed in Table 6. The permittee may request different MDLs. Such a request must be in writing and must be approved by EPA.

3. Bioassessment Monitoring. The permittee must annually conduct instream bioassessment monitoring to determine if the composition of macroinvertebrate and fish species in the receiving waters are impacted by the facility discharges.

   a. The permittee shall conduct instream bioassessment monitoring directly downstream of outfalls 001 and 003. If effluent is discharged form outfall 002 for six months or longer, monitoring shall be required directly downstream of outfall 002.

   b. In the event that discharge effluent is combined to one outfall, annual monitoring is required directly downstream of the combined outfall and the abandoned outfall for comparison.

   c. Bioassessment monitoring shall be consistent with the most recent DEQ Beneficial Use Reconnaissance Project workplan for wadeable streams.

4. Quality assurance/quality control plans for all the monitoring must be documented in the Quality Assurance Plan required under Part I.E.

5. The permittee must submit an annual report summarizing the results of the ambient water monitoring to EPA and IDEQ by January 31st of the next year. At a minimum, the report must include: the sample locations; dates of sample collection and analyses; analytical and bioassessment results; a discussion of field sampling and laboratory methods, including quality assurance/quality control; data handling; and, the determination of impact required in paragraph 3., above.

Table 6: Receiving Water Monitoring Parameters and MDLs

Parameter	Units	Method Detection Limit (MDL)
Copper, dissolved	ug/l	1
Mercury, total	ug/l	0.001
Silver, dissolved	ug/l	0.1
Total Suspended Solids (TSS)	mg/l	–
pH	standard units	--
Temperature	°C	--
Hardness	mg/l $CaCO_3$	--

Table 6: Receiving Water Monitoring Parameters and MDLs		
Parameter	Units	Method Detection Limit (MDL)
footnote 1: Hardness shall be monitored upstream and downstream of the outfall.		

E. Quality Assurance Plan. The permittee must develop a quality assurance plan (QAP) for all monitoring required by this permit. The plan must be submitted to EPA for review within 60 days of the effective date of this permit and implemented within 120 days of the effective date of this permit. Any existing QAPs may be modified for submittal under this section.

1. The QAP must be designed to assist in planning for the collection and analysis of effluent and receiving water samples in support of the permit and in explaining data anomalies when they occur.

2. Throughout all sample collection and analysis activities, the permittee must use the EPA-approved QA/QC and chain-of-custody procedures described in *Requirements for Quality Assurance Project Plans* (EPA/QA/R-5) and *Guidance for Quality Assurance Project Plans* (EPA/QA/G-5). The QAP must be prepared in the format which is specified in these documents.

3. At a minimum, the QAP must include the following:

   a. Details on the number of samples, type of sample containers, preservation of samples, holding times, analytical methods, analytical detection and quantitation limits for each target compound, type and number of quality assurance field samples, precision and accuracy requirements, sample preparation requirements, sample shipping methods, and laboratory data delivery requirements.

   b. Map(s) indicating the location of each sampling point.

   c. Qualification and training of personnel.

   d. Name(s), address(es) and telephone number(s) of the laboratories, used by or proposed to be used by the permittee.

4. The permittee must amend the QAP whenever there is a modification in sample collection, sample analysis, or other procedure addressed by the QAP.

5. Copies of the QAP must be kept on site and made available to EPA and/or Idaho Department of Environmental Quality (IDEQ) upon request.

II. BEST MANAGEMENT PRACTICES PLAN

A. Purpose. Through implementation of the best management practices (BMP) plan the permittee must prevent or minimize the generation and the potential for the release of pollutants from the facility to the waters of the United States.

B. Development and Implementation Schedule. The permittee must develop and implement a BMP Plan which achieves the objectives and the specific requirements listed below. A copy of the BMP Plan must be submitted to EPA within 120 days of the effective date of the permit. Any existing BMP plans may be modified for submittal and approval under this section. The permittee must implement the provisions of the plan as conditions of this permit within 180 days of the effective date of this permit.

C. Objectives. The permittee must develop and amend the BMP Plan consistent with the following objectives for the control of pollutants.

1. The number and quantity of pollutants and the toxicity of effluent generated, discharged or potentially discharges at the facility must be minimized by the permittee to the extent feasible by managing each waste stream in the most appropriate manner.

2. Under the BMP Plan and any Standard Operating Procedures included in the BMP Plan, the permittee must ensure proper operation and maintenance of water management and wastewater treatment systems. BMP Plan elements must be developed in accordance with good engineering practices.

3. Each facility component or system must be examined for its waste minimization opportunities and its potential for causing a release of significant amounts of pollutants to waters of the United States due to equipment failure, improper operation, natural phenomena such as rain or snowfall, etc. The examination must include all normal operations and ancillary activities including material storage areas, storm water, in-plant transfer, material handling and process handling areas, loading or unloading

operations, spillage or leaks, sludge and waste disposal, or drainage from raw material storage.

D. Elements of the BMP Plan. The BMP Plan must be consistent with the objectives above and the general guidance contained in *Guidance Manual for Developing Best Management Practices* (EPA 833-B-93-004, October 1993) or any subsequent revisions to this guidance document. The BMP Plan must include, at a minimum, the following items:

1. Statement of BMP policy. The BMP Plan must include a statement of management commitment to provide the necessary financial, staff, equipment, and training resources to develop and implement the BMP Plan on a continuing basis.

2. Structure, functions, and procedures of the BMP Committee. The BMP Plan must establish a BMP Committee responsible for developing, implementing, and maintaining the BMP Plan.

3. Release Identification and Assessment. A release identification is the systematic cataloging of areas at a facility with ongoing or potential releases to the environment. A release assessment is used to determine the impact on human health and the environment of any on-going or potential release identified. The identification and assessment process involves the evaluation of both current discharges and potential discharges.

4. Measures and Controls. The permittee must develop a description of pollution prevention controls, BMPs, and other measures appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in the BMP Plan must reflect identified potential sources of pollutants at the facility. The description of management controls must address the following minimum components:

    a. Good Housekeeping. A program by which the facility is kept in a clean and orderly fashion to prevent releases to the environment.

    b. Preventative Maintenance. A program focused on preventing releases caused by equipment problems, rather than repair of equipment after problems occur.

c. Inspections. A program established to oversee facility operations and identify actual or potential environmental releases and to ensure that BMPs are being implemented.

d. Security. A program designed to avoid releases due to accidental or intentional entry.

e. Employee Training. A program developed to instill in employees an understanding of the BMP Plan.

f. Recordkeeeping and Reporting. A program designed to maintain relevant information and foster communication.

5. Specific Best Management Practices. The BMP Plan must establish specific BMPs or other measures which ensure that the following specific requirements are met:

a. Solids, sludges, or other pollutants removed in the course of treatment or control of water and wastewaters must be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

b. Ensure proper management of solid and hazardous waste in accordance with regulations promulgated under the Resource Conservation and Recovery Act (RCRA). Management practices required under RCRA regulations must be referenced in the BMP Plan.

c. Ensure proper management of materials in accordance with Spill Prevention, Control, and Countermeasure (SPCC) plans under Section 311 of the Act and 40 CFR Part 112. The BMP Plan may incorporate any part of such plans into the BMP Plan by reference.

E. Annual Review and Certification.

1. Annual Review. An annual review of the BMP Plan must be conducted by the responsible manager and BMP committee.

2. Annual Certification. The permittee must prepare a certified statement that the above reviews have been completed and that the BMP Plan fulfills the requirements set forth in the permit. This statement must be signed in accordance with Part V.E. (Signatory

Requirements) of this permit. This statement must be submitted to EPA on or before January 31st of each year of operation under this permit.

F. Documentation. The permittee must maintain a copy of the BMP Plan at the facility and make it available to EPA or an authorized representative upon request.

G. BMP Plan Modification.

1. The permittee must amend the BMP Plan whenever there is a change in the facility or in the operation of the facility which materially increases the generation of pollutants or their release or potential release to surface waters.

2. The permittee must amend the BMP Plan whenever it is found to be ineffective in achieving the general objective of preventing and minimizing the generation and the potential for the release of pollutants from the facility to the waters of the United States and/or the specific requirements above.

3. Any changes to the BMP Plan must be consistent with the objectives and specific requirements listed above. All changes in the BMP Plan must be reported to EPA in writing.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling (Routine and Non-Routine Discharges). Samples and measurements must be representative of the volume and nature of the monitored discharge.

In order to ensure that the effluent limits set forth in this permit are not violated at times other than when routine samples are taken, the permittee must collect additional samples at the appropriate outfall whenever any discharge occurs that may reasonably be expected to cause or contribute to a violation that is unlikely to be detected by a routine sample. The permittee must analyze the additional samples for those parameters limited in Part I.A. of this permit that are likely to be affected by the discharge.

The permittee must collect such additional samples as soon as the spill, discharge, or bypassed effluent reaches the outfall. The samples must be analyzed in accordance with paragraph III.C ("Monitoring Procedures"). The permittee must report all additional monitoring in accordance with paragraph III.D ("Additional Monitoring by Permittee").

B. Reporting of Monitoring Results. The permittee must summarize monitoring results each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1) or equivalent. The permittee must submit reports monthly, postmarked by the 15th day of the following month. The permittee must sign and certify all DMRs, and all other reports, in accordance with the requirements of Part V.E. of this permit ("Signatory Requirements"). The permittee must submit the legible originals of these documents to the Director, Office of Water, with copies to IDEQ at the following addresses:

United States Environmental Protection Agency, Region 10
1200 Sixth Avenue, OW-133
Seattle, Washington 98101

Idaho Department of Environmental Quality
Coeur d'Alene Regional Office
2110 Ironwood Parkway
Coeur d'Alene, Idaho 83814

C. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures have been specified in this permit.

D. Additional Monitoring by Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the permittee must include the results of this monitoring in the calculation and reporting of the data submitted in the DMR.

Upon request by the Director, the permittee must submit results of any other sampling, regardless of the test method used.

E. Records Contents. Records of monitoring information must include:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements;
3. the date(s) analyses were performed;
4. the name(s) of the individual(s) who performed the analyses;
5. the analytical techniques or methods used; and
6. the results of such analyses.

F. Retention of Records. The permittee must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of DMRs, a copy of the NPDES permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director or IDEQ at any time.

G. Twenty-four Hour Notice of Noncompliance Reporting

1. The permittee must report the following occurrences of noncompliance by telephone within 24 hours from the time the permittee becomes aware of the circumstances:

   a. any noncompliance that may endanger health or the environment;

   b. any unanticipated bypass that exceeds any effluent limitation in the permit (See Part IV.F., "Bypass of Treatment Facilities");

   c. any upset that exceeds any effluent limitation in the permit (See Part IV.G., "Upset Conditions"); or

   d. any violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.

2. The permittee must also provide a written submission within five days of the time that the permittee becomes aware of any event required to be reported under subpart 1 above. The written submission must contain:

   a. a description of the noncompliance and its cause;

   b. the period of noncompliance, including exact dates and times;

   c. the estimated time noncompliance is expected to continue if it has not been corrected; and

   d. steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the NPDES Compliance Hotline in Seattle, Washington, by telephone, (206) 553-1846.

4. Reports must be submitted to the addresses in Part III.B ("Reporting of Monitoring Results").

H. Other Noncompliance Reporting. The permittee must report all instances of noncompliance, not required to be reported within 24 hours, at the time that monitoring reports for Part III.B ("Reporting of Monitoring Results") are submitted. The reports must contain the information listed in Part III.G.2 of this permit ("Twenty-four Hour Notice of Noncompliance Reporting").

I. Changes in Discharge of Toxic Substances. The permittee must notify the Director and IDEQ as soon as it knows, or has reason to believe:

1. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following "notification levels":

   a. One hundred micrograms per liter (100 ug/l);

   b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

   c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

   d. The level established by the Director in accordance with 40 CFR 122.44(f).

2. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in the permit, if that discharge may reasonably be expected to exceed the highest of the following "notification levels":

   a. Five hundred micrograms per liter (500 ug/l);

b. One milligram per liter (1 mg/l) for antimony;

c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or

d. The level established by the Director in accordance with 40 CFR 122.44(f).

J. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.

IV. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification, or for denial of a permit renewal application.

B. Penalties for Violations of Permit Conditions

1. Civil Penalties. Pursuant to 40 CFR 19 and the Act, any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $27,500 per day for each violation).

2. Administrative Penalties. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $11,000 per

violation, with the maximum amount of any Class I penalty assessed not to exceed $27,500). Pursuant to 40 CFR 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. § 3701 note) (currently $11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $137,500).

3. Criminal Penalties:

   a. Negligent Violations. The Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both.

   b. Knowing Violations. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both.

   c. Knowing Endangerment. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the Act,

shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

d. False Statements. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with this permit.

D. Duty to Mitigate. The permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance. The permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential

maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this Part.

2. Notice.

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it must submit prior notice to the Director and IDEQ, if possible, at least 10 days before the date of the bypass.

   b. Unanticipated bypass. The permittee must submit notice of an unanticipated bypass as required under Part III.G ("Twenty-four Hour Notice of Noncompliance Reporting").

3. Prohibition of bypass.

   a. Bypass is prohibited, and the Director may take enforcement action against the permittee for a bypass, unless:

      i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

      iii) The permittee submitted notices as required under paragraph 2 of this Part.

   b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 3.a. of this Part.

G. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the permittee meets the requirements of paragraph 2 of this Part. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. Conditions necessary for a demonstration of upset. To establish the affirmative defense of upset, the permittee must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. An upset occurred and that the permittee can identify the cause(s) of the upset;

   b. The permitted facility was at the time being properly operated;

   c. The permittee submitted notice of the upset as required under Part III.G, "Twenty-four Hour Notice of Noncompliance Reporting;" and

   d. The permittee complied with any remedial measures required under Part IV.D, "Duty to Mitigate."

3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

H. Toxic Pollutants. The permittee must comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

I. Planned Changes. The permittee must give notice to the Director and IDEQ as soon as possible of any planned physical alterations or additions to the permitted facility whenever:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or

2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither

to effluent limitations in the permit, nor to notification requirements under Part III.I ("Changes in Discharge of Toxic Substances").

J. Anticipated Noncompliance. The permittee must give advance notice to the Director and IDEQ of any planned changes in the permitted facility or activity that may result in noncompliance with this permit.

V. GENERAL PROVISIONS

A. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause as specified in 40 CFR 122.62, 122.64, or 124.5. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

B. Duty to Reapply. If the permittee intends to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. In accordance with 40 CFR 122.21(d), and unless permission for the application to be submitted at a later date has been granted by the Regional Administrator, the permittee must submit a new application at least 180 days before the expiration date of this permit.

C. Duty to Provide Information. The permittee must furnish to the Director and IDEQ, within the time specified in the request, any information that the Director or IDEQ may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee must also furnish to the Director or IDEQ, upon request, copies of records required to be kept by this permit.

D. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or that it submitted incorrect information in a permit application or any report to the Director or IDEQ, it must promptly submit the omitted facts or corrected information.

E. Signatory Requirements. All applications, reports or information submitted to the Director and IDEQ must be signed and certified as follows.

1. All permit applications must be signed as follows:

   a. For a corporation: by a responsible corporate officer.

   b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

   c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director or IDEQ must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a. The authorization is made in writing by a person described above;

   b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and

   c. The written authorization is submitted to the Director and IDEQ.

3. Changes to authorization. If an authorization under Part V.E.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.E.2. must be submitted to the Director and IDEQ prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. Any person signing a document under this Part must make the following certification:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the

information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

F. **Availability of Reports**. In accordance with 40 CFR 2, information submitted to EPA pursuant to this permit may be claimed as confidential by the permittee. In accordance with the Act, permit applications, permits and effluent data are not considered confidential. Any confidentiality claim must be asserted at the time of submission by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice to the permittee. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR 2, Subpart B (Public Information) and 41 Fed. Reg. 36902 through 36924 (September 1, 1976), as amended.

G. **Inspection and Entry**. The permittee must allow the Director, IDEQ, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

H. **Property Rights**. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, nor any infringement of state or local laws or regulations.

I. **Transfers**. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the

permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory).

J. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

VI. DEFINITIONS

1. "Act" means the Clean Water Act.

2. "Administrator" means the Administrator of the EPA, or an authorized representative.

3. "Average monthly discharge limitation" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

4. "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

6. "CWA" means the Clean Water Act.

7. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

8. “Director” means the Director of the Office of Water, EPA, or an authorized representative.

9. “DMR” means discharge monitoring report.

10. “EPA” means the United States Environmental Protection Agency.

11. “Grab" sample is an individual sample collected over a period of time not exceeding 15 minutes.

12. “IC_{25}" means inhibition concentration 25. The IC_{25} is a point estimate of the toxicant concentration that would cause a 25% reduction in a nonlethal biological measurement of the test organisms, such as reproduction or growth.

13. “IDEQ” means Idaho Department of Environmental Quality.

14. "Maximum daily discharge limitation" means the highest allowable "daily discharge."

15. “Method Detection Limit (MDL)” means the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

16. “QA/QC” means quality assurance/quality control.

17. “Regional Administrator” means the Regional Administrator of Region 10 of the EPA, or the authorized representative of the Regional Administrator.

18. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

19. “Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities,

inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

20. "24-hour composite" sample means a combination of at least 8 discrete sample aliquots of at least 100 milliliters, collected over periodic intervals from the same location, during the operating hours of the facility over a 24 hour period. The composite must be flow proportional. The sample aliquots must be collected and stored in accordance in accordance with procedures prescribed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*.